

THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

IN RE:

KENNETH WESLEY MILLS §  
XXX-XX-8984 § CASE NO. 08-40268-R  
P. O. BOX 294621 § CHAPTER 13  
LEWISVILLE, TX 75029 §  
DEBTOR §

MOTION TO DISMISS AND SETTING HEARING

**THE TRUSTEE REQUESTS THE COURT TO SET THIS MOTION FOR HEARING ON December 17, 2008, AT 10:00 am AS FOLLOWS:**

**Plano Bankruptcy Courtroom  
Wells Fargo Bank Building  
660 North Central Expressway  
Plano, Texas 75074**

COMES NOW JANNA L. COUNTRYMAN, the Standing Chapter 13 Trustee, and files this her Motion to Dismiss and Setting Hearing in the above numbered and styled proceeding, and for cause would show the Honorable Court as follows:

The Debtor has unreasonably delayed the case because the Debtor has failed to make Chapter 13 plan payments as required by 11 USC §1326(a)(1). As of November 21, 2008, the Debtor is in arrears in the amount of \$4,552.00. Failure to perform this duty constitutes an unreasonable delay by the Debtor that is prejudicial to creditors under 11 USC §1307(c)(1) and amounts to a material default of a confirmed plan under 11 USC §1307(c)(6), and thus cause exists for dismissal.

WHEREFORE, PREMISES CONSIDERED, Janna L. Countryman, the Standing Chapter 13 Trustee, prays that this case be dismissed for cause.

Respectfully submitted,

/s/ Greg R. Arnove  
Janna L. Countryman, TBN 04888050  
Greg R. Arnove, TBN 00783562  
Office of the Standing Chapter 13 Trustee  
500 North Central Expressway, Suite 350  
Plano, Texas 75074  
(972) 943-2580 / Fax (972) 943-8050

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion to Dismiss and Setting Hearing has been served upon the following parties in interest by mailing a copy of same to them via first class mail and uploaded to the Court for service by the Bankruptcy Noticing Center to the parties on the Court's mailing matrix on the date set forth below.

KENNETH WESLEY MILLS  
P. O. BOX 294621  
LEWISVILLE, TX 75029

BILLY D. PRICE, PC  
5489 BLAIR ROAD, SUITE 425  
DALLAS, TX 75231

Dated: November 24, 2008

/s/ Greg R. Arnove

Office of the Standing Chapter 13 Trustee